

February 25, 2016

The Honorable James Inhofe
Chairman
Committee on Environment and Public Works
410 Dirksen Senate Office Building
Washington, DC 20510-6175

The Honorable Barbara Boxer
Ranking Member
Committee on Environment and Public Works
456 Dirksen Senate Office Building
Washington, DC 20510-6175

Re: Opposition to S. 2446, the "Improving Coal Combustion Residuals Regulation Act of 2016"

Dear Chairman Inhofe and Ranking Member Boxer:

The undersigned public interest groups and state legislators strongly oppose S. 2446, the "Improving Coal Combustion Residuals Regulation Act of 2016." Introduced by Senators Hoeven (R-ND) and Manchin (D-WV), S.2446 threatens health, safety and the environment while relieving owners of coal-fired power plants of their responsibility to safely dispose of the toxic coal ash they generate. The bill greatly increases the potential for harm to communities in the United States and its territories by amending the Resource Conservation and Recovery Act (RCRA) to remove critical and long-awaited safeguards established by the U.S. Environmental Protection Agency (EPA) on December 19, 2014 in their final coal ash rule.

The EPA's first-ever coal ash rule was a compromise that went to great lengths to address the concerns of industry, recyclers and states by characterizing coal ash as non-hazardous waste, allowing the continued operation of coal ash ponds, exempting the beneficial use of coal ash, and establishing generous timeframes for compliance and closure. Despite these generous concessions, S. 2446 further guts the new EPA rule of public health protections and places American communities at increased risk of toxic exposure and catastrophic disasters in the following ways.

The Improving Coal Combustion Residuals Regulation Act of 2016 (S. 2446) will:

- **ELIMINATE** the EPA rule's requirement to immediately clean up all toxic releases from coal ash and notify the public;
- **ELIMINATE** the EPA rule's national standard for drinking water protection and cleanup of coal ash contaminated sites;
- **ELIMINATE** the rule's nationwide protective standards and allow each state to set different standards for disposal;
- **ELIMINATE** the EPA rule's requirement to close existing coal ash lagoons that are sited in dangerous and unstable areas;
- **ELIMINATE** the EPA rule's environmental and health protections for large coal ash fill projects;
- **ELIMINATE** the EPA rule's prohibition against siting coal ash dumps in floodplains;
- **ELIMINATE** all protective standards for coal ash waste piles nationwide;
- **SIGNIFICANTLY DELAY**, for up to six years, the requirement to close leaking and structurally unsound impoundments;
- **SIGNIFICANTLY DELAY** the application of safety, design, and operating standards for new coal ash lagoons and landfills;
- **SIGNIFICANTLY DELAY** the EPA rule's guarantee of public access to information regarding water contamination and assessments of dangerous coal ash dams;
- **SIGNIFICANTLY DELAY** critical requirements, such as inspections, control of fugitive dust, groundwater monitoring and cleanup requirements for all new coal ash lagoons and landfills;

- **SIGNIFICANTLY WEAKEN AND DELAY** the ability of citizens to enforce safety requirements;
- **PROHIBIT** effective federal oversight of state coal ash programs;
- **PROHIBIT EPA** enforcement of state program requirements unless invited by a state.
- **PROHIBIT EPA** from requiring financial assurance under RCRA to ensure utility companies are able to pay for the cleanup of spills and contaminated drinking water. The financial assurance provision in the bill does not cover spills or releases of hazardous substances.

The EPA coal ash rule is currently protecting hundreds of American communities. Coal plant owners have already established publicly accessible websites, posted fugitive dust control plans, and initiated weekly inspections. In addition, coal plants have already announced plans to close nearly 100 inactive and leaking coal ash lagoons by April 2018. This month, all owners and operators will complete their first major inspections of all active landfills and impoundments. S.2446 will delay for years critical public health protections that are now in effect.

In summary, we oppose S. 2446 because the bill places the health of our communities and environment in great danger and fails to guarantee consistent nationwide protection. S. 2446 would particularly harm the nation’s most vulnerable communities, since coal ash lagoons are disproportionately located in communities of color and low-income neighborhoods. Relief from coal ash dumping is long overdue:

- Two major coal ash disasters have occurred since 2008 (including the largest toxic waste spill in our nation’s history);
- U.S. utilities operate more than 300 high and significant-hazard earthen coal ash dams that can significantly harm communities and their environment if they fail;
- More than 200 coal ash sites have already contaminated water in 37 states, and
- Communities across the nation are threatened by toxic dust from coal ash dumpsites.

The EPA’s 2014 coal ash rule is already providing protection to our most vulnerable communities and our irreplaceable water resources. Congress must refrain from causing irreparable harm by denying and delaying such protection, and consequently we respectfully request that you oppose S. 2446.

Respectfully submitted,

NATIONAL

Center for Biological Diversity
 Citizens Coal Council
 Clean Air Task Force
 Clean Water Action
 Defenders of Wildlife
 Earthjustice
 Environmental Integrity Project
 Friends of the Earth
 Greenpeace
 League of Conservation Voters
 Natural Resources Defense Council
 New Energy Economy
 Public Justice
 Rachel Carson Council
 Sierra Club
 Southern Environmental Law Center
 Waterkeeper Alliance

ALASKA

Alaska Community Action on Toxic

ALABAMA

Alabama Rivers Alliance
 Black Belt Citizens Fighting for Health and Justice
 Black Warrior Riverkeeper
 Cahaba Riverkeeper
 Friends of the Locust Fork River
 GASP
 Shoals Environmental Alliance
 Southern Alliance for Clean Energy
 Tennessee Riverkeeper

ARKANSAS

Sweet Water Cosortium

ARIZONA

Dine’ Citizens Against Ruining our Environment
 People Demanding Action, Tucson Chapter
 Physicians for Social Responsibility, AZ Chapter

CALIFORNIA

As You Sow
 Our Children's Earth Foundation

DELAWARE

Delaware Riverkeeper Network

FLORIDA

Florida Wildlife Federation
Southern Alliance for Clean Energy
Suncoast Waterkeeper
St. Johns Riverkeeper

GEORGIA

Altamaha Riverkeeper
Chattahoochee Riverkeeper
GreenLaw
Fall-line Alliance for a Clean Environment (FACE)
Southern Alliance for Clean Energy

ILLINOIS

Better Building Institute, Inc. (nfp)
Citizens Against Longwall Mining
Eco-Justice Collaborative
Friends of Bell Smith Springs
Girl Scout Troop #6195
Prairie Rivers Network
Sierra Club, Illinois Chapter
Sierra Club, Piasa Palisades Group
Environmental Law & Policy Center

INDIANA

Earth Charter Indiana, Inc.
Fishable Indiana Streams for Hoosiers, Inc. (FISH)
Hoosier Environmental Council
Valley Watch, Inc.
Wabash Riverkeeper Network

IOWA

Environmental Law & Policy Center
Iowa Environmental Council

KENTUCKY

Kentuckians For The Commonwealth
Kentucky Environmental Foundation
Sierra Club, Cumberland Chapter

LOUISIANA

Atchafalaya Basinkeeper

MASSACHUSETTS

Toxics Action Center Campaigns

MARYLAND

Assateague Coastal Trust
Waterkeepers Chesapeake

MICHIGAN

Environmental Law & Policy Center
Lone Tree Council
Progress Michigan

MINNESOTA

Environmental Law & Policy Center
Minnesota Center for Environmental Advocacy

MISSISSIPPI

Southern Alliance for Clean Energy

MISSOURI

Earth Ethics Committee of the Ethical Society of
St. Louis
Labadie Environmental Organization
Mid-Missouri Peaceworks/Missourians for Safe
Energy
Midwest Coalition Responsible Investment
Missouri Coalition for the Environment

MONTANA

Montana Environmental Information Center

NEVADA

Moapa Band of Paiutes

NEW YORK

Concerned Residents of Portlant, NY + People

NORTH CAROLINA

Alliance for Energy Democracy
Appalachian Voices
Cape Fear River Watch
Catawba Riverkeeper Foundation
Clean Air Carolina
Clean Water for North Carolina
Environment North Carolina
MountainTrue
NC Council of Churches
NC Interfaith Power & Light
NC WARN
New River Conservancy
River Guardian Foundation
We Need Water! Campaign

Western North Carolina Chapter, Physicians for
Social Responsibility
Southern Alliance for Clean Energy
Yadkin Riverkeeper

NORTH CAROLINA STATE LEGISLATORS

Representative Pricey Harrison
Representative Ralph Johnson
Representative Bobbie Richardson
Representative Brian Turner
Representative Cecil Brockman
Representative Duane R. Hall
Representative Evelyn Terry
Representative Graig Meyer
Representative Robert T. Reives, II
Senator Erica Smith-Ingram

NORTH DAKOTA

Environmental Law & Policy Center

OHIO

Ohio Citizen Action
Environmental Law & Policy Center

OREGON

Southern Oregon Climate Action Now

PENNSYLVANIA

Friends of Dunkard Creek
Foundation for Pennsylvania Watersheds
Little Blue Regional Action Group
Mountain Watershed Association
Residents Against the Power Plant
Youghiogheny Riverkeeper

PUERTO RICO

Comite Dialogo Ambiental, Inc.

SOUTH CAROLINA

Save Our Saluda
Southern Alliance for Clean Energy
Upstate Forever
Winyah Rivers Foundation

SOUTH DAKOTA

Environmental Law & Policy Center

TENNESSEE

Southern Alliance for Clean Energy
Statewide Organizing for Community
eMpowerment (SOCM)
Tennessee Clean Water Network
Tennessee Riverkeeper

TEXAS

Bastrop County Environmental Network

UTAH

HEAL Utah
Utah Physicians for a Healthy Environment

VIRGINIA

Concerned Citizens of Giles County LLC
James River Association
Potomac Riverkeeper
Shenandoah Riverkeeper

WISCONSIN

Clean Wisconsin
Environmental Law & Policy Center
Milwaukee Riverkeeper

WEST VIRGINIA

Ohio Valley Environmental Coalition
West Virginia Highlands Conservancy

WYOMING

Powder River Basin Resource Council